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DEC 06 2007

OFFICE OF PETITIONS

Applicant: Bilyeu et al.
Appl. No.: 09/971,993
Conf. No.: 4144
Filed: October 5, 2001
Title: GAMING APPARATUS AND METHOD OF GAMING INCLUDING
INTERACTIVE GAMING SYMBOLS FOR PRODUCING DIFFERENT
OUTCOMES
Art Unit: 3714
Examiner: Tramar Yong Harper
Docket No.: 112300-4339

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**PETITION UNDER 37 C.F.R. §1.313(c)
FOR WITHDRAWAL FROM ISSUE**

Sir:

Applicant hereby submits this Petition under 37 C.F.R. §1.313(c) in the above-referenced application. Enclosed are the following:

- (a) a copy of the Transmittal Letter and Form 1449 of the Information Disclosure Statement dated August 30, 2007 ("August 2007 IDS");
- (b) a Request for Continued Examination ("RCE"); and
- (c) a Supplemental Information Disclosure Statement ("Supplemental IDS").

On August 16, 2007, Examiner Tramar Harper for this application ("Examiner") telephoned Applicant's representative, attorney Renato Smith ("Attorney Smith"), regarding a proposed Examiner's amendment. At such time, Attorney Smith informed the Examiner that this application had recently been transferred to the law firm of Attorney Smith. Attorney Smith also informed the Examiner that Attorney Smith intended to file an Information Disclosure Statement to be considered in the examination of this application. The Examiner acknowledged Attorney Smith's intention to file such Information Disclosure Statement, and the Examiner raised no objections.

Based on the Examiner's amendment, the Examiner issued a Notice of Allowance dated August 28, 2007 for this application. On August 30, 2007, Applicant

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submitted the August 2007 IDS. On November 26, 2007, Applicant paid the issue fee for this application.

In the Transmittal Letter of the August 2007 IDS, there is an "X" in a box related to a Notice of Allowance, and there is an "X" in a box related to a certification statement under 37 C.F.R. §1.97(e). Such certification statement states that "... to the knowledge of the undersigned, after making reasonable inquiry, no item of information contained in the accompanying Information Disclosure Statement was known to any individual designated in 37 CFR 1.56(c) more than three months prior to the filing of the Information Disclosure Statement." After the filing of the August 2007 IDS, and after the payment of the issue fee, it came to Attorney Smith's attention that certain items of information identified in the August 2007 IDS were known to certain individuals designated in 37 C.F.R. §1.56(c) more than three months prior to the filing of the August 2007 IDS. For example, after the filing of the August 2007 IDS, and after the payment of the issue fee, it came to Attorney Smith's attention that the prior counsel for this application submitted an Information Disclosure Statement dated October 5, 2001. Such Information Disclosure Statement of prior counsel identified six U.S. patents which were also identified in the August 2007 IDS.

As of the date of this Petition, Applicant has not received from the Examiner, an initialed version of the Form 1449 of the August 2007 IDS. In a telephone conference with the Examiner on the date of this Petition, the Examiner informed Applicant that the Examiner found the August 2007 IDS to be improper.

For the foregoing reasons, Applicant submits this Petition to ensure that the items of information identified in the August 2007 IDS are considered in the examination of this application. The Form 1449 of the Supplemental IDS, submitted in conjunction with the enclosed RCE, cites the identical items of information cited on the Form 1449 of the August 2007 IDS. The Supplemental IDS does not, however, include any certification under 37 C.F.R. §1.97(e).

In accordance with 37 C.F.R. §1.313(a) and §1.313(c)(2), Applicant submits that the circumstances and reasons set forth above constitute a showing of good and sufficient reasons why the withdrawal of this application from issue is necessary.

Therefore, Applicant respectfully requests the granting of this Petition, the granting of the enclosed Request for Continued Examination, and the consideration of the items of information identified in the enclosed Supplemental IDS.

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The Commissioner is hereby authorized to charge deposit account 02-1818 for any and all fees which are due and owing in connection with this application, including, without limitation, fees due in connection with this Petition, the RCE and the Supplemental IDS.

Respectfully submitted,

BELL, BOYD & LLOYD LLP

BY 

Renato L. Smith
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Cust. No. 29159

Dated: December 6, 2007